

● Industry Circular



Internal Revenue Service
Alcohol, Tobacco, and Firearms Division
Washington, D.C. 20224

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Industry Circular No. 72-1

EFFECT OF TITLE XI ON THE FIREWORKS INDUSTRY

Title XI, Regulation of Explosives
Public Law 91-452

Purpose. The purpose of this circular is to clarify the provisions of the Federal explosives regulations with respect to fireworks.

Background. Title XI of Public Law 91-452 (18 U. S. C. Chapter 40) establishes Federal controls over explosive materials which include black powder and other pyrotechnic compositions commonly used in fireworks. Part 181 of Title 26, Code of Federal Regulations, contains the regulations which implement Title XI. Section 181.141(h) of those regulations exempts "The importation and distribution of fireworks in a finished state, commonly sold at retail for personal use in compliance with State laws or local ordinances." Because of the many questions that have arisen concerning this exemption, the following guidelines are established.

What is exempt.

The exemption applies only to "common fireworks" in a finished state, classified under Department of Transportation regulations as Class "C" Explosives (49 CFR 173.100(r)). It does not apply to "special fireworks" classified as Class "B" Explosives under those regulations.

The law and regulations also exempt black powder in quantities not exceeding five pounds. Therefore, the manufacture, acquisition or storage of black powder in quantities of five pounds or less which may be used in manufacturing any type of fireworks is exempt from regulation. Quantities in excess of five pounds are subject to all the regulatory controls even though ultimately used in making "common fireworks" which are exempt under the regulations.

Who needs a license.

Manufacturers of black powder in quantities exceeding five pounds.

Manufacturers of any other explosive material used in manufacturing "special fireworks" (Class "B") or "common fireworks" (Class "C").

Importers of or dealers in "special fireworks" (Class "B").

Who needs a permit.

A person acquiring or transporting "special fireworks" (Class "B") interstate for his own use and not for resale. Agencies of the United States or of any state or political subdivision thereof are exempt from the permit requirements.

A person, other than a licensee, acquiring or transporting explosive materials interstate for use in manufacturing "special fireworks" (Class "B") or "common fireworks" (Class "C"), unless the materials consist of black powder of a quantity not exceeding five pounds.

Types of permits.

User permit - allows the permittee to acquire, transport, ship and receive "special fireworks" (Class "B") in interstate or foreign commerce for his own use and not for resale. This permit is issued at a cost of twenty dollars for a one-year period and is renewable at a cost of ten dollars.

User-limited permit - is identical to the user permit but is issued for a single transaction at a cost of two dollars and is not renewable. A new permit must be obtained for each transaction. This type of permit is advantageous to civic and veterans organizations who wish to conduct a single display such as on the Fourth of July.

Storage.

"Special fireworks" (Class "B") must be stored in a type 1, 2, 3, or 4 storage facility.

In storage facilities where weight restrictions apply, the net weight of the explosive materials may be used. To determine the actual weight of the explosive materials it may be necessary to contact the manufacturer.

General Information.

A person may, without a permit, purchase "special fireworks" (Class "B") in his State of residence by completing a Form 4710, Explosives Transaction Record, with the dealer. He may also purchase "special fireworks" (Class "B"), without a permit, in a contiguous (bordering) State provided his State of residence has enacted legislation, currently in force, authorizing its residents to lawfully purchase explosives in a contiguous State and provided he completes a Form 4710, Explosives Transaction Record, with the dealer.

Licensees and permittees should become familiar with the unlawful acts contained in Section 842 of Title 18, United States Code.

The provisions of Title XI must be complied with even though State statutes or local ordinances may authorize the acquisition, possession, distribution, transportation or use of "special fireworks" (Class "B") for agricultural or other purposes.

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